

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON
4

Res2019-011

5
6 **A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE**
7 **ASSIGNMENT AND ASSUMPTION OF CONTRACT DOCUMENTS BETWEEN**
8 **FULTON COUNTY AND VARIOUS CONTRACTORS PERFORMING 2016**
9 **TSPLOST FUNDED TRANSPORTATION PROJECTS WITHIN THE CITY OF**
10 **SOUTH FULTON AND FOR OTHER PURPOSES**

11 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation
12 duly organized and existing under the laws of the State of Georgia;
13

14 **WHEREAS**, the duly elected governing authority of the City is the Mayor
15 and City Council ("City Council");
16

17 **WHEREAS**, effective April 26, 2016, the Georgia General Assembly
18 enacted Senate Bill 369 to authorize a referendum for the imposition of a
19 transportation special purpose local option sales district transportation tax
20 ("TSPLOST") of up to 1% for use only for transportation purposes;

21 **WHEREAS**, on July 20, 2016, for the purpose of calling the referendum
22 and to control the distribution of TSPLOST proceeds upon its passage, Fulton
23 County and the qualified municipalities located outside of the City of Atlanta,
24 entered into an intergovernmental agreement ("IGA") pursuant to Article 9,
25 Section 3, Paragraph I of the Georgia Constitution and O.C.G.A. § 48-8-262,
26 memorializing their agreement to levy the tax and the rate of the tax;

27 **WHEREAS**, in compliance with O.C.G.A. § 48-8-262, the IGA contains the
28 list of transportation projects to be funded by the tax and the cost of each such
29 project and the procedures for distributing the tax proceeds to the qualifying
30 municipalities for use toward the designated projects, including, but not limited to,
31 the transportation projects located within unincorporated Fulton County;

32 **WHEREAS**, under the IGA, Fulton County and the qualified municipalities
33 agreed that 16.60% of the tax proceeds is designated for the 2016 TSPLOST
34 transportation projects located within unincorporated Fulton County;

35 **WHEREAS**, the IGA authorized and provided for Fulton County to enter
36 into contracts and manage certain designated TSPLOST funded transportation
37 projects within the City for the benefit of residents of the City of South Fulton;

38 **WHEREAS**, Fulton County entered into various contracts with third-party
39 contractors to provide the 2016 TSPLOST funded transportation projects in
40 unincorporated Fulton County;

41 **WHEREAS**, the contracts entered into by Fulton County with the various
42 contractors are for the fulfillment of each of the designated TSPLOST projects
43 identified in the IGA, and include contracts with: (a) C.W. Matthews Contracting,
44 Inc. (17ITB108775K-DB – Road Resurfacing for the City of South Fulton); (b)
45 GTG Traffic Signals, LLC (17ITB110904K-DB – OSI 606 Cascade Palmetto
46 Highway at West Stubbs Road); (c) Jacobs Engineering Group, Inc.
47 (18RFP111317K-DB – TSPLOST Construction Engineering & Inspection
48 Services); (d) Jacobs Engineering Group, Inc. (15RFP98496K-JD – Standby
49 Professional Services for Facilities Related Planning, Design, Engineering and
50 Assessments-Engineering Services for Transportation); (e) Williams-Russell and
51 Johnson, Inc. (WR&J) and Moreland Altobelli Associates, Inc. (MAA), a Joint
52 Venture (15RFP98496K-JD – Standby Professional Services for Facilities
53 Related Planning, Design, Engineering and Assessments-Engineering Services
54 for Transportation); and (f) American Engineers, Inc. (AEI), and Civil Services,
55 Inc. (CSI), a Joint Venture (15RFP98496K-JD – Standby Professional Services
56 for Facilities Related Planning, Design, Engineering and Assessments-
57 Engineering Services for Transportation);

58 **WHEREAS**, the City of South Fulton was created by the 2016 Georgia
59 General Assembly pursuant to House Bill 514 ("City Charter");

60 **WHEREAS**, with the formation of the City of South Fulton, the
61 transportation projects located in unincorporated Fulton County, funded by the
62 16.60% of TSPLOST proceeds, and managed under the various Fulton County
63 contracts, are now located within the boundaries of the City of South Fulton;

64 **WHEREAS**, Georgia Constitution, Article IX, § 2, ¶ III, prohibits cities and
65 counties from exercising governmental authority within each other's boundaries
66 except by intergovernmental agreement, or as otherwise provided by law;

67 **WHEREAS**, pursuant to a Memorandum of Understanding entered into
68 between the City and the County dated December 5, 2018 (Agenda item # 18-
69 0921), Fulton County agrees to transfer to the City of South Fulton those portions
70 of the TSPLOST proceeds designated under the IGA for the 2016 TSPLOST
71 funded projects for the City of South Fulton's use solely in furtherance of the
72 completion of the 2016 TSPLOST projects;

73 **WHEREAS**, to comply with applicable laws, Fulton County and City of
74 South Fulton desire for Fulton County to assign each of the TSPLOST funded
75 contracts, and for the City of South Fulton to assume each of these contracts,
76 pursuant to an Assignment and Assumption of Contract and Consent to
77 Assignment document, for the City of South Fulton to takeover and manage the

scope of work under each contract and to provide funding to each contractor for the services performed under each contract;

WHEREAS, This Resolution is in the best interests of the health and general welfare of the City, its residents and general public.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby approves and authorizes the City Manager to execute each Assignment and Assumption of Contract and Consent to Assignment between Fulton County, the City and various contractors, in substantially the form attached hereto as Exhibit "A," and incorporated herein by reference, for the 2016 TSPLOST funded projects located within the City.

BE IT FURTHER RESOLVED, that the City Manager is expressly authorized to execute an Assignment and Assumption of Contract and Consent to Assignment document between Fulton County and the City and various contractors, to include: (a) C.W. Matthews Contracting, Inc. (17ITB108775K-DB – Road Resurfacing for the City of South Fulton); (b) GTG Traffic Signals, LLC (17ITB110904K-DB – OSI 606 Cascade Palmetto Highway at West Stubbs Road); (c) Jacobs Engineering Group, Inc. (18RFP111317K-DB – TSPLOST Construction Engineering & Inspection Services); (d) Jacobs Engineering Group, Inc. (15RFP98496K-JD – Standby Professional Services for Facilities Related Planning, Design, Engineering and Assessments-Engineering Services for Transportation); (e) Williams-Russell and Johnson, Inc. (WR&J) and Moreland Altobelli Associates, Inc. (MAA), a Joint Venture (15RFP98496K-JD – Standby Professional Services for Facilities Related Planning, Design, Engineering and Assessments-Engineering Services for Transportation); and (f) American Engineers, Inc. (AEI), and Civil Services, Inc. (CSI), a Joint Venture (15RFP98496K-JD – Standby Professional Services for Facilities Related Planning, Design, Engineering and Assessments-Engineering Services for Transportation);

BE IT FURTHER RESOLVED, that the City Attorney shall approve each Assignment and Assumption of Contract and Consent to Assignment document as to form, and make any necessary modifications thereof, prior to execution by the City Manager.

Section 2. It is hereby declared to be the intention of the City Council that: (a) All sections, paragraphs, sentences, clauses and phrases of this Resolution are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

(b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Resolution is severable from every other section, paragraph, sentence, clause or phrase of this Resolution. No section,

paragraph, sentence, clause or phrase of this Resolution is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Resolution.

Section 3. All Resolutions and parts of Resolutions in conflict herewith are hereby expressly repealed.

Section 4. The effective date of this Resolution shall be the date of adoption unless provided otherwise by the City Charter or state and/or federal law.

Section 5. Instruction to Deputy City Clerk: The City Clerk is hereby instructed to forward a copy of this Resolution to the Public Works Director.

The foregoing **RESOLUTION No. 2019-011** adopted on **March 26, 2019** was offered by Councilmember **Gilyard**, who moved its approval. The motion was seconded by Councilmember **Rowell**, and being put to a vote, the result was as follows:

| | AYE | NAY |
|-------------------------------|-------------------------------------|--------------------------|
| William "Bill" Edwards, Mayor | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Mark Baker, Mayor Pro Tem | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Catherine Foster Rowell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Carmalitha Lizandra Gumbs | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Helen Zenobia Willis | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Gertrude Naeema Gilyard | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Rosie Jackson | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| khalid kamau | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

183 THIS RESOLUTION adopted this 26th day of March 2019. CITY OF SOUTH
184 FULTON, GEORGIA.
185
186
187
188

189 
190 _____
191 WILLIAM "BILL" EDWARDS, MAYOR
192
193
194
195

196
197 ATTEST:

198 
199 _____
200 S. DIANE WHITE, CITY CLERK
201
202
203
204



205
206 ITEM# Res 2019-011 DATE 3/26/2019
207
208

209 APPROVED AS TO FORM:

210 
211 _____
212 EMILIA C. WALKER, CITY ATTORNEY
213
214
215
216
217